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RICHARD W. WILSON
CLERK OF COURT
NORTHERN DISTRICT OF CALIFORNIA

Attorneys for Plaintiffs,
ARISTA RECORDS LLC; ATLANTIC
RECORDING CORPORATION; WARNER
BROS. RECORDS INC.; SONY BMG MUSIC
ENTERTAINMENT; UMG RECORDINGS, INC.;
and PRIORITY RECORDS LLC

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ADR

ARISTA RECORDS LLC, a Delaware limited
liability company; ATLANTIC RECORDING
CORPORATION, a Delaware corporation;
WARNER BROS. RECORDS INC., a Delaware
corporation; SONY BMG MUSIC
ENTERTAINMENT, a Delaware general
partnership; UMG RECORDINGS, INC., a
Delaware corporation; and PRIORITY
RECORDS LLC, a California limited liability
company,

Plaintiffs,

v.

JOHN DOE,

Defendant.

CASE NO.

07-04866

CW

COMPLAINT FOR COPYRIGHT
INFRINGEMENT

JURISDICTION AND VENUE

1
2 1. This is a civil action seeking damages and injunctive relief for copyright infringement
3 under the copyright laws of the United States (17 U.S.C. § 101 *et seq.*).

4 2. This Court has jurisdiction under 17 U.S.C. § 101 *et seq.*; 28 U.S.C. § 1331 (federal
5 question); and 28 U.S.C. § 1338(a) (copyright).

6 3. Venue in this District is proper. See 28 U.S.C. §§ 1391(b), 1400(a). Although the
7 true identity of Defendant John Doe ("Defendant") is unknown to Plaintiffs at this time, on
8 information and belief, Defendant may be found in this District and/or a substantial part of the acts
9 of infringement complained of herein occurred in this District. On information and belief, personal
10 jurisdiction in this District is proper because Defendant, without consent or permission of the
11 copyright owner, disseminated over the Internet copyrighted works owned and/or controlled by
12 Plaintiffs. On information and belief, such illegal dissemination occurred in every jurisdiction in the
13 United States, including this one. In addition, Defendant contracted with an Internet Service
14 Provider ("ISP") found in this District to provide Defendant with the access to the Internet which
15 facilitated Defendant's infringing activities.

16 **PARTIES**

17 4. Plaintiff Arista Records LLC is a limited liability company duly organized and
18 existing under the laws of the State of Delaware, with its principal place of business in the State of
19 New York.

20 5. Plaintiff Atlantic Recording Corporation is a corporation duly organized and existing
21 under the laws of the State of Delaware, with its principal place of business in the State of New
22 York.

23 6. Plaintiff Warner Bros. Records Inc. is a corporation duly organized and existing
24 under the laws of the State of Delaware, with its principal place of business in the State of
25 California.

26 7. Plaintiff SONY BMG MUSIC ENTERTAINMENT is a Delaware general
27 partnership, with its principal place of business in the State of New York.
28

1 8. Plaintiff UMG Recordings, Inc. is a corporation duly organized and existing under the
2 laws of the State of Delaware, with its principal place of business in the State of California.

3 9. Plaintiff Priority Records LLC is a limited liability company with its principal place
4 of business in the State of California.

5 10. The true name and capacity of Defendant are unknown to Plaintiffs at this time.
6 Defendant is known to Plaintiffs only by the Internet Protocol ("IP") address assigned to Defendant
7 by his or her ISP on the date and time of Defendant's infringing activity. See Exhibit A. Plaintiffs
8 believe that information obtained in discovery will lead to the identification of Defendant's true
9 name.

COUNT I

INFRINGEMENT OF COPYRIGHTS

10 11. Plaintiffs incorporate herein by this reference each and every allegation contained in
11 each paragraph above.

12 12. Plaintiffs are, and at all relevant times have been, the copyright owners or licensees of
13 exclusive rights under United States copyright law with respect to certain copyrighted sound
14 recordings, including, but not limited to, all of the copyrighted sound recordings on Exhibit A to this
15 Complaint (collectively, these copyrighted sound recordings shall be identified as the "Copyrighted
16 Recordings"). Each of the Copyrighted Recordings is the subject of a valid Certificate of Copyright
17 Registration issued by the Register of Copyrights to each Plaintiff as specified on each page of
18 Exhibit A.
19

20 13. Among the exclusive rights granted to each Plaintiff under the Copyright Act are the
21 exclusive rights to reproduce the Copyrighted Recordings and to distribute the Copyrighted
22 Recordings to the public.

23 14. Plaintiffs are informed and believe that Defendant, without the permission or consent
24 of Plaintiffs, has continuously used, and continues to use, an online media distribution system to
25 download and/or distribute to the public certain of the Copyrighted Recordings. Exhibit A identifies
26 the IP address with the date and time of capture and a list of copyrighted recordings that Defendant
27 has, without the permission or consent of Plaintiffs, downloaded and/or distributed to the public.
28

1 Through his or her continuous and ongoing acts of downloading and/or distributing to the public the
2 Copyrighted Recordings, Defendant has violated Plaintiffs' exclusive rights of reproduction and
3 distribution. Defendant's actions constitute infringement of Plaintiffs' copyrights and/or exclusive
4 rights under copyright. (In addition to the sound recordings listed on Exhibit A, Plaintiffs are
5 informed and believe Defendant has, without the permission or consent of Plaintiffs, continuously
6 downloaded and/or distributed to the public additional sound recordings owned by or exclusively
7 licensed to Plaintiffs or Plaintiffs' affiliate record labels, and Plaintiffs believe that such acts of
8 infringement are ongoing. Exhibit A includes the currently-known total number of audio files being
9 distributed by Defendant.)

10 15. Plaintiffs have placed proper notices of copyright pursuant to 17 U.S.C. § 401 on
11 each respective album cover of each of the sound recordings identified in Exhibit A. These notices
12 of copyright appeared on published copies of each of the sound recordings identified in Exhibit A.
13 These published copies were widely available, and each of the published copies of the sound
14 recordings identified in Exhibit A was accessible by Defendant.

15 16. Plaintiffs are informed and believe that the foregoing acts of infringement have been
16 willful, intentional, and in disregard of and with indifference to the rights of Plaintiffs.

17 17. As a result of Defendant's infringement of Plaintiffs' copyrights and exclusive rights
18 under copyright, Plaintiffs are entitled to statutory damages pursuant to 17 U.S.C. § 504(c) against
19 Defendant for each infringement of each copyrighted recording. Plaintiffs further are entitled to
20 their attorneys' fees and costs pursuant to 17 U.S.C. § 505.

21 18. The conduct of Defendant is causing and, unless enjoined and restrained by this
22 Court, will continue to cause Plaintiffs great and irreparable injury that cannot fully be compensated
23 or measured in money. Plaintiffs have no adequate remedy at law. Pursuant to 17 U.S.C. §§ 502
24 and 503, Plaintiffs are entitled to injunctive relief prohibiting Defendant from further infringing
25 Plaintiffs' copyrights, and ordering that Defendant destroy all copies of copyrighted sound
26 recordings made in violation of Plaintiffs' exclusive rights.

27 WHEREFORE, Plaintiffs pray for judgment against Defendant as follows:

28 1. For an injunction providing:

1 “Defendant shall be and hereby is enjoined from directly or indirectly
 2 infringing Plaintiffs’ rights under federal or state law in the
 3 Copyrighted Recordings and any sound recording, whether now in
 4 existence or later created, that is owned or controlled by Plaintiffs (or
 5 any parent, subsidiary, or affiliate record label of Plaintiffs)
 6 (“Plaintiffs’ Recordings”), including without limitation by using the
 7 Internet or any online media distribution system to reproduce (*i.e.*,
 8 download) any of Plaintiffs’ Recordings or to distribute (*i.e.*, upload)
 9 any of Plaintiffs’ Recordings, except pursuant to a lawful license or
 10 with the express authority of Plaintiffs. Defendant also shall destroy
 11 all copies of Plaintiffs’ Recordings that Defendant has downloaded
 12 onto any computer hard drive or server without Plaintiffs’
 13 authorization and shall destroy all copies of those downloaded
 14 recordings transferred onto any physical medium or device in
 15 Defendant’s possession, custody, or control.”

16 2. For statutory damages for each infringement of each Copyrighted Recording
 17 pursuant to 17 U.S.C. § 504.

18 3. For Plaintiffs’ costs in this action.

19 4. For Plaintiffs’ reasonable attorneys’ fees incurred herein.

20 5. For such other and further relief as the Court may deem just and proper.

21 Dated: September 20, 2007

HOLME ROBERTS & OWEN LLP

22 By: 

23 MATTHEW FRANKLIN JAKSA
 24 Attorney for Plaintiffs
 25 ARISTA RECORDS LLC; ATLANTIC
 26 RECORDING CORPORATION;
 27 WARNER BROS. RECORDS INC.;
 28 SONY BMG MUSIC
 ENTERTAINMENT; UMG
 RECORDINGS, INC.; and PRIORITY
 RECORDS LLC

Exhibit A

EXHIBIT A

JOHN DOE

IP Address: 207.62.146.225 2007-06-05 07:26:01 EDT

CASE ID# 131864781

P2P Network: Gnutella

Total Audio Files: 971

<u>Copyright Owner</u>	<u>Artist</u>	<u>Recording Title</u>	<u>Album Title</u>	<u>SR#</u>
Arista Records LLC	Kenny G	Have Yourself A Merry Little Christmas	Miracles	206-848
Atlantic Recording Corporation	Twista	Overnight Celebrity	Kamikaze	360-486
Warner Bros. Records Inc.	Faith Hill	Breathe	Breathe	276-629
SONY BMG MUSIC ENTERTAINMENT	Nas	One Mic	Stillmatic	305-698
UMG Recordings, Inc.	Bloodhound Gang	The Bad Touch	Hooray For Boobies	278-185
SONY BMG MUSIC ENTERTAINMENT	Journey	Faithfully	Frontiers	43-223
Priority Records LLC	Ice Cube	MP	The War Disc	268-428
UMG Recordings, Inc.	Black Eyed Peas	Shut Up	Elephunk	334-398